

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JACOB MEEKS,

Petitioner,

v.

JENNIFER SACHSE,

Respondent.

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No. 4:11-CV-1861 CAS

ORDER

This matter is before the Court on state prisoner Jacob Meeks' action pursuant to 28 U.S.C. § 2254. This case was referred to United States Magistrate Judge David D. Noce for report and recommendation on all dispositive matters and for final disposition on all non-dispositive matters, pursuant to 28 U.S.C. § 636(b).

On May 14, 2014, Judge Noce filed a Report and Recommendation of United States Magistrate Judge which concluded that petitioner's claims are both procedurally barred and without merit, and recommended that Meeks' petition for writ of habeas corpus be denied.

Petitioner filed timely objections to the Report and Recommendation. The Court has carefully reviewed petitioner's objections and the entire record of this matter. Although petitioner's objections are somewhat difficult to understand, he objects that the Magistrate Judge's recitation of the procedural background of the underlying state case did not (1) mention that petitioner filed a motion to withdraw his guilty plea, (2) mention that the state post-conviction judge stated that neither movant nor his attorney needed to attend the post-conviction hearing, or (3) "go into detail" as to why the original state post-conviction judge recused himself from the proceeding. Petitioner also asserts that he exhausted his state remedies, and was told by the state court judge that his

attorney, Derrick Williams, had been disbarred. None of these objections show that the Magistrate Judge's recommendation is contrary to the law or the facts of this case. The Magistrate Judge correctly concluded that petitioner's claims are procedurally barred, and that each claim fails on the merits as well.

It appears petitioner is attempting to assert new claims in his objections concerning (1) the state court's denial of petitioner's motion to withdraw his guilty plea, (2) the State's alleged violation of petitioner's Sixth Amendment speedy trial rights as a result of long pretrial delays, and (3) deficiencies and/or defects in the state court charges. To the extent petitioner is asking this Court to address these new claims on de novo review, it declines to do so and finds they are waived because petitioner did not present them to the Magistrate Judge. Cf. Moore v. Bowersox, 106 F.3d 405 (8th Cir. 1997) (Table) (district court did not abuse its discretion in refusing to consider new grounds for relief raised in habeas petitioner's motion for reconsideration, filed after a magistrate judge's report and recommendation was before the district court).

The Eighth Circuit has held that a party may not offer new legal theories in objections to a magistrate judge's report and recommendation, when those arguments have not been presented to the magistrate judge or addressed in the report and recommendation. "A party cannot, in his objections to an R & R, raise arguments that were not clearly presented to the magistrate judge." Ridenour v. Boehringer Ingelheim Pharms., Inc., 679 F.3d 1062, 1066-67 (8th Cir. 2012) (quoted case omitted) (party waived claim where it was not presented to the magistrate judge and district court properly refused to consider it).

Following de novo review, the Court concurs in the recommendation of the Magistrate Judge. Petitioner's objections are overruled.

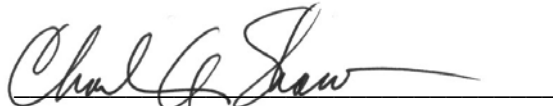
Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation of United States Magistrate Judge is **sustained, adopted** and **incorporated** herein. [Doc. 27]

IT IS FURTHER ORDERED that Jacob Meeks' Petition for Writ of Habeas Corpus pursuant to Title 28 U.S.C. § 2254 is **DENIED**. [Docs. 1, 5]

IT IS FURTHER ORDERED that this matter is **DISMISSED**, with no further action to take place herein.

An appropriate judgment will accompany this order.


CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 7th day of October, 2014.